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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-832]

Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012-2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China ("PRC"). The period of review ("POR") is May 1, 2012, through April 30, 2013. This review covers one PRC company, Tianjin Magnesium International, Co., Ltd. ("TMI") and Tianjin Magnesium Metal Co., Ltd. ("TMM") (collectively "TMI/TMM").¹ The Department preliminarily finds that TMI/TMM did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: Effective Date: (Insert date published in the *Federal Register*)

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-4243 or (202) 482-5848, respectively.

¹ The Department initiated the instant review on both TMM and TMI. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 38924 (June 28, 2013) ("Initiation Notice"). In the interim, for the prior 2011-2012 review of the order, the Department determined TMM and TMI to be collapsed and treated as a single entity for purposes of the proceeding. See *Pure Magnesium From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 94 (January 2, 2014) and accompanying Issues and Decision Memorandum at Comment 5. As this collapsing determination remains unchallenged in this review, the instant preliminary results of this review cover the single TMM/TMI entity.

Scope of the Order

Merchandise covered by the order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

- (1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium);
- (2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as “pure” magnesium); and
- (3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium

(including turnings, chips and powder) having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Background

On May 1, 2013, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from the PRC for the period May 1, 2012 through April 30, 2013.² On May 31, 2013, U.S. Magnesium LLC (“U.S. Magnesium”), a domestic producer and Petitioner in the underlying investigation of this case, made a timely request that the Department conduct an administrative review of TMI and TMM.³ On June 28, 2013, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review.⁴ On August 26 and August 27, 2013, TMM and TMI separately

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 78 FR 25420, 25424 (May 1, 2013).

³ See letter from U.S. Magnesium, “Pure Magnesium from the People’s Republic of China: Request for Administrative Review,” dated May 31, 2013.

⁴ See *Initiation Notice*.

submitted letters to the Department certifying that they did not export pure magnesium for consumption in the United States during the POR.⁵

On January 6, 2014, the Department placed on the record information obtained in response to the Department's query to U.S. Customs and Border Protection ("CBP") concerning imports into the United States of subject merchandise during the POR.⁶ This information indicates that there were no entries of subject merchandise during the POR that had been exported by TMI or TMM. In addition, on January 8, 2014, we notified CBP that we were in receipt of a no-shipment certification from TMI and TMM and requested CBP to report any contrary information within 10 days.⁷ CBP did not report any contrary information.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁸ Thus, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of review is Tuesday, February 18, 2014.⁹

Preliminary Determination of No Shipments

As noted in the "Background" section above, TMI and TMM each submitted timely-filed certifications indicating that it had no shipments of subject merchandise to the United States during the POR. In addition, CBP did not provide any evidence that contradicts TMI or TMM's

⁵ See letter from TMM, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium Metal, Co., Ltd.," dated August 26, 2013, at 1; *see also* letter from TMI, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.," dated August 27, 2013, at 1.

⁶ See Memorandum to the File, "2012-2013 Administrative Review of Pure Magnesium from the People's Republic of China: U.S. Customs and Border Protection Data," dated January 6, 2014 ("CBP Query").

⁷ See Customs Message # 4008304, "No Shipments Inquiry," dated January 8, 2014.

⁸ See Memorandum to the File, "Pure Magnesium From the People's Republic of China: Tolling of Deadlines for Shutdown of the Federal Government," dated December 29, 2013.

⁹ See *id.* Because Monday, February 17, 2014, is a federal holiday, the deadline extended deadline becomes Tuesday, February 18, 2014, consistent with *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

claim of no shipments.¹⁰ The Department received no comments from interested parties concerning the results of the CBP query.

Based on TMI and TMM's certification and our analysis of CBP information, we preliminarily determine that the single TMI/TMM entity did not have any reviewable entries during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in non-market economy ("NME") cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to TMI/TMM and to issue appropriate instructions to CBP based on the final results of the review.¹¹

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at

¹⁰ See CBP Query.

¹¹ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) and the "Assessment Rates" section, below.

<http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹² Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Additionally, pursuant to a recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate.¹³

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by

¹² See 19 CFR 351.310(c).

¹³ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

section 751(a)(2)(C) of the Act: (1) for TMI/TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: February 14, 2014.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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